

MDR Tracking Number: M5-04-0306-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9-30-03.

The IRO reviewed office visits w/manipulations, ultrasound, myofascial release, electrical stimulation, and hot/cold packs from 12-4-02 through 1-31-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. The disputed date of service 9-27-02 is untimely and ineligible for review per TWCC Rule 133.307 (d)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. The Commission received the medical dispute on 9-30-03.

On 12-23-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The requestor failed to submit relevant information to support components of the fee dispute in accordance with Rule 133.307(g)(3)(A-F). No reimbursement recommended.

This Decision is hereby issued this 1st day of March 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 12-4-02 through 1-31-03 in this dispute.

This Order is hereby issued this 1st day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

December 4, 2003
Amended February 25, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

This patient was injured on the job when she slipped and fell into a pratfall position, with much of the stress of the fall on her low back. In attempting to stop herself, she also injured her left arm. Initially she was treated by the company's doctor and later selected ___ as her treating doctor. MRI revealed a bulge at L4/5 and a herniation of 3 mm at L5/S1. She underwent a series of ESI treatments and was sent for a discogram, which was positive at L3/4, L4/5 and L5/S1. She underwent extensive care during the diagnostic period and was helped somewhat, from the review of the records, but the FCE indicated that the patient was unable to return to her work. She saw a designated doctor in January of 2003, ___ and he found her not at MMI. He recommended further active care. A percutaneous nucleoplasty was performed on June 2, 2003 and she has been working to rehabilitate from this injury since that time. Records refer to a peer review by ___, but that report is not included in this package.

DISPUTED SERVICES

The carrier has denied the medical necessity of office visits with manipulations, ultrasound, myofascial release, electrical stimulation, and hot/cold packs from December 4, 2002 - January 31, 2003.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that the care was reasonably related to the injury and does document progress, even if palliative in nature, at varying points in the treatment plan. Of note is that the treating doctor performed the services rendered after referring and consulting with 2 other professionals, as well as having had a designated doctor's opinion which agreed with the approach taken by the treating doctor. While it was unfortunate that this lady eventually had a surgical procedure, the testing and the treatment was within acceptable practice parameters and guidelines for a difficult case such as this. As a result, all of the care rendered within this dispute is reasonable and necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,